

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Authority to Implement Default CPP Rate
Options For Large Customers.

Application 05-01-016
(Filed January 20, 2005)

Application of San Diego Gas & Electric
Company (U902-E) for Adoption of a 2005
Default Critical Peak Pricing Structure for
Commercial and Industrial Customers with Peak
Demands Exceeding 300 kW.

Application 05-01-017
(Filed January 20, 2005)

Southern California Edison Company's
(U338-E) Application for Approval of Rate
Design Proposals for Large Customers.

Application 05-01-018
(Filed January 20, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM COMPENSATION**

1. Summary

This ruling responds to The Utility Reform Network's (TURN) notice of intent (NOI) to claim compensation in this proceeding. After consultation with the Assigned Commissioner, I find TURN eligible to claim compensation pursuant to Pub. Util. Code § 1804.¹

¹ All statutory references are to the Public Utilities Code.

2. NOI Requirements

2.1. Timely Filing

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference in this proceeding occurred on February 24, 2005. The due date for NOIs was March 26, 2005. TURN filed its NOI on March 25, 2005 and its NOI is timely.

2.2. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

TURN meets the third definition of customer, as set forth in § 1802(b): it is an organization authorized by its articles of incorporation² to represent the interests of consumers, a portion of which are residential customers.

² D.98-04-059 directed intervenors either to file their articles of incorporation with the NOI, or to provide a reference to a previous filing. (*Id.* at 30.) TURN chose the latter alternative, referring to articles of incorporation it filed with its NOI in Application (A.) 98-02-017 and again in A.99-12-024. TURN has approximately 30,000 dues paying members, the majority of which it believes to be residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available as required by D.98-04-059, Finding of Fact 12.

2.3 Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the customer may make the required showing in the request for an award of compensation.

“Significant financial hardship” means (1) either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, (2) or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. (Section 1802(g).)

In order to determine whether TURN is eligible for compensation, we must find that the economic interest of the individual members of the TURN is small in comparison to the costs of effective participation in the proceeding. TURN has elected not to make that showing here. Instead, it relies on a rebuttable presumption of eligibility: Assigned Administrative Law Judge (ALJ) Wetzell found that TURN had satisfied the significant financial hardship test on July 27, 2004 in Rulemaking 04-04-003. The present proceeding commenced on January 20, 2005, within one year of the R.04-04-003 finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in R.04-04-003 is applicable here. If any party attempts to rebut this presumption, TURN is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal’s filing.

2.4 Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN states that because this proceeding deals primarily with issues affecting non-residential customers, the scope of its interests are limited to revenue allocation and policy implications of this proceeding on residential and small commercial customers. TURN does not intend to provide expert testimony, but expects to review other parties' testimony and file pleadings if appropriate.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. TURN noted that the first phase of the proceeding had already been submitted when it filed its NOI so based on an assumption of rather limited participation, TURN estimates the following as potential compensation amounts:

Amount	Description
\$22,000	80 hours of professional time by TURN attorney Marcel Harwiger at \$275/hour
\$ 7,000	Consultant expenses
\$ 1,500	Other direct expenses
\$30,000	Total

TURN satisfactorily presents an itemized estimate of the compensation it expects to request. Like any intervenor, TURN must fully support its ultimate request for compensation, including substantiating that it has made a substantial contribution, and the reasonableness of the hours spent and hourly rates.

IT IS RULED that:

1. The Utility Reform Network (TURN) has met the eligibility requirements of Pub. Util. Code § 1804(a). TURN is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.

2. TURN has established a rebuttable presumption of significant financial hardship. If any party attempts to rebut the presumption, TURN is granted leave to establish its significant financial hardship within 10 days of the rebuttal's filing.

3. A finding of eligibility in no way assures compensation.

Dated June 20, 2005, at San Francisco, California.

/s/ MICHELLE COOKE

Michelle Cooke
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated June 20, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.